

**REMARKS**

Reconsideration and allowance of the claims are requested in view of the above amendments and the following remarks. Claims 1, 17, 32 and 33 are amended. Support for the claim amendments may be found in the specification and claims as originally filed. For example, support for the claim amendments may be found in the specification at least at page 2, lines 6-8 and page 10, lines 3-4 and lines 18-24. No new matter has been added.

Upon entry of this amendment, claims 1, 4-17 and 20-43 are pending in the application, with claims 1, 17, 32, 33, 34, 37, 40 and 43 being independent. Claims 34-43 have been withdrawn from consideration. Claims 2-3 and 18-19 have been canceled without prejudice or disclaimer.

Applicants thank Examiners Bertram and Bockelman for the courtesies extended to applicants' representative, Mr. Sung Kim, during an interview conducted on March 19, 2007. The substance of the interview is incorporated in the remarks that follow.

**1. Election/Restriction**

The Office Action states that the present application contains claims directed to the following patentably distinct species: Species A, the embodiment wherein image capture and storage occurs only upon detection of a capture condition; and Species B, the embodiment wherein image capture is continuous, and storage in memory is dependent on the existence of a capture condition. The Office Action asserts that the species are independent or distinct because the embodiments vary in scope and would thus require divergent searches.

During a telephonic conversation with applicant's attorney Steven Spellman on December 4, 2006, a provisional election was made without traverse to prosecute the invention of Species A, claims 1-33. Applicants hereby affirm this election. Claims 34-43 are withdrawn from further consideration in accordance with 37 CFR 1.142(b), as being drawn to a non-elected invention.

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**2. Rejection Under 35 U.S.C. §101**

**Claim 32** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, the Office Action asserts that the “computer program product” recited in the preamble of claim 32 can include a computer data signal embodied in a carrier wave signal (citing page 2, lines 15-17 in the specification), and that a carrier wave is not tangible as required by 35 U.S.C. 101. Applicants respectfully traverse this rejection for at least the following reasons.

For purposes of economy of prosecution, claim 32 has been amended to recite a “computer readable storage medium” (see specification, page 2, lines 13-14). Therefore, claim 32 is directed to statutory subject matter.

For at least the reasons above, reconsideration and withdrawal of the rejection of claim 32 under 35 U.S.C. §101 are respectfully requested.

**3. Rejections Under 35 U.S.C. 102**

**Claims 1, 10, 12, 17, 26, 28 and 32** are rejected under 35 U.S.C. 102(b) as being anticipated by Lemelson (US 4,901,096). Applicants respectfully traverse this rejection for at least the following reasons.

Lemelson discloses controlling the operation of a camera to prevent the recording of picture information which is blurred due to camera movement while the shutter of the camera is open (see abstract). A manual pushbutton switch 13 on the camera is used to control the camera shutter 20 to take pictures (see col. 2, line 59 - col. 3, line 11). In a first form described in Lemelson, if the camera is in motion when the manual pushbutton switch 13 is depressed, such motion is sensed by a transducer 16 that generates a signal to prevent operation of the shutter mechanism until the sensor fails to sense camera movement (see col. 3, lines 12-29; abstract). In a second form, a camera shutter brake or lock is released to allow the camera to take a picture when the pushbutton switch is actuated provided that the camera does not detect movement (see

abstract). Therefore, in both the first and second forms described therein, Lemelson teaches that manual actuation of the pushbutton switch is required to trigger the camera to record picture information. In fact, the Office Action on page 4 interprets “capture condition” recited in the claims as the switch being manually depressed or actuated.

However, as discussed during the interview, Lemelson fails to disclose or suggest an environmental sensor that monitors ambient conditions to detect a capture condition (e.g., ambient temperature, light and sound), as included in amended claim 1. Additionally, Lemelson fails to disclose or suggest that detection of the capture condition by the environmental sensor followed by detection of a stable condition causes capture of an image by the camera, as included in amended claim 1. As discussed above, Lemelson teaches that manual actuation of the camera is required to trigger the camera. Lemelson is silent with respect to causing the camera to capture an image as a result of detecting the capture condition by an environmental sensor followed by detection of a stable condition.

Therefore, claim 1 is allowable since Lemelson fails to disclose or suggest each and every element therein. Independent claims 17 and 32 have been amended to include elements similar to those of claim 1 and, therefore, are also allowable.

Claims 10 and 12 depend on claim 1. Claims 26 and 28 depend on claim 17. As discussed above, claims 1 and 17 are allowable. For at least this reason, and the additional features recited therein, claims 10, 12, 26 and 28 are also allowable.

For at least the reasons above, reconsideration and withdrawal of the rejection of claims 1, 10, 12, 17, 26, 28 and 32 under 35 U.S.C. §102 are respectfully requested.

#### **4. Rejections Under 35 U.S.C. 103**

**Claims 5, 6, 21 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson in view of Horimoto (US 4,009,943). Applicants respectfully traverse this rejection for at least the following reasons.

As discussed above, Lemelson fails to disclose or suggest each and every element of

independent claims 1 and 17. Horimoto fails to cure this defect.

Horimoto discloses a wide angle or fish eye lens system (see abstract). However, Horimoto fails to disclose or suggest an environmental sensor that monitors ambient conditions to detect a capture condition (e.g., ambient temperature, light and sound), or that detection of the capture condition by the environmental sensor followed by detection of a stable condition causes capture of an image by the camera, as included, in some form, in amended claims 1 and 17.

Therefore, since Lemelson and Horimoto, alone or in combination, fail to disclose or suggest all of the elements of claims 1 and 17, these claims are allowable over the cited references.

Claims 5-6 depend on claim 1. Claims 21-22 depend on claim 17. As discussed above, claims 1 and 17 are allowable. For at least this reason, and the additional features recited therein, claims 5-6 and 21-22 are also allowable.

**Claim 16** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson in view of Moultrie, Jr. (US 2002/0159770, hereinafter Moultrie). Applicants respectfully traverse this rejection for at least the following reasons.

As discussed above, Lemelson fails to disclose or suggest each and every element of independent claim 1. Moultrie fails to cure this defect.

Moultrie discloses a surveillance camera for wild game animals in which the camera is activated by a passive infrared sensor detecting body heat of an animal to be photographed (see abstract). However, Moultrie fails to disclose or suggest an environmental sensor that monitors ambient conditions to detect a capture condition (e.g., ambient temperature, light and sound), or that detection of the capture condition by the environmental sensor followed by detection of a stable condition causes capture of an image by the camera, as included in amended claim 1.

Therefore, since Lemelson and Moultrie, alone or in combination, fail to disclose or suggest all of the elements of claim 1, this claim is allowable over the cited references.

Claim 16 depends on claim 1. As discussed above, claim 1 is allowable. For at least this

reason, and the additional features recited therein, claim 16 is also allowable.

**Claim 33** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson in view of Shiozaki et al. (US 5,978,603, hereinafter Shiozaki). Applicants respectfully traverse this rejection for at least the following reasons.

As discussed above, Lemelson fails to disclose or suggest an environmental sensor that monitors ambient conditions to detect a capture condition (e.g., ambient temperature, light and sound), as included in amended claim 33. Additionally, Lemelson fails to disclose or suggest that detection of the capture condition by the environmental sensor followed by detection of a stable condition causes capture of an image by the camera, as included in amended claim 33. Shiozaki fails to cure this defect.

Shiozaki discloses a camera with a liquid crystal monitor display. However, Shiozaki fails to disclose or suggest an environmental sensor that monitors ambient conditions to detect a capture condition (e.g., ambient temperature, light and sound), or that detection of the capture condition by the environmental sensor followed by detection of a stable condition causes capture of an image by the camera, as included in amended claim 33.

Therefore, since Lemelson and Shiozaki, alone or in combination, fail to disclose or suggest all of the elements of claim 33, this claim is allowable over the cited references.

**Claims 1-4, 7-15, 17-20 and 23-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi (US 6,558,050) in view of Grosvenor et al. (US 2003/0025798, hereinafter Grosvenor). Applicants respectfully traverse this rejection for at least the following reasons.

Ishibashi discloses a video camera with two or more operation modes, e.g., a high power and a low power consumption mode (see Figure 2 illustrating a video camera circuit 6; Figure 4 illustrating two mode settings). The video camera system in Ishibashi permits shooting for a long period of time by saving memory capacity and power consumption (see col. 1, lines 38-40).

The video camera includes a detector for detecting the motion state and/or the physiological state of a user of the camera, and a controller for selecting one mode from among the operation modes of the camera on the basis of the detection results (see abstract). Therefore, Ishibashi discloses that the detection results are used to determine an operation mode setting of the camera to save on power consumption (see col. 4, lines 37-42; Figure 4).

However, as discussed during the interview, Ishibashi fails to disclose or suggest that detection of a capture condition by an environmental sensor followed by detection of a stable condition causes capture of an image by the camera, as included in amended claim 1. Instead, Ishibashi merely discloses that detection a motion state and/or physiological state of a user determines an operational mode setting for the camera. In fact, since the camera disclosed by Ishibashi is a video camera that continuously records images, Ishibashi is understandably silent with respect to using the detection results to cause the camera to selectively capture an image. Grosvenor fails to cure this defect in Ishibashi.

Grosvenor discloses the use of one or more gyros or accelerometers arranged to measure rotation/translation that are secured to a camera to detect motion thereof (see paragraph 68). However, Grosvenor fails to disclose or suggest that detection of a capture condition by an environmental sensor followed by detection of a stable condition causes capture of an image by the camera, as included in amended claim 1. Therefore, since Ishibashi and Grosvenor, alone or in combination, fail to disclose or suggest all of the elements of claim 1, this claim is allowable. Independent claim 17 has been amended to include elements similar to those of claim 1 and, therefore, is also allowable.

Claims 4 and 7-15 depend on claim 1. Claims 20 and 23-31 depend on claim 17. As discussed above, claims 1 and 17 are allowable. For at least this reason, and the additional features recited therein, claims 4, 7-15, 20 and 23-31 are also allowable.

Since claims 2-3 and 18-19 have been canceled, the rejection of these claims is rendered moot.

For at least the reasons above, reconsideration and withdrawal of the rejection of claims

1-31 and 33 under 35 U.S.C. §103 are respectfully requested.

**5. Conclusion**

Accordingly, in view of the above amendment and remarks it is submitted that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome. Reconsideration and reexamination of the present application is requested. Based on the foregoing, applicants respectfully request that the pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the applicants' attorney at the telephone number listed below.

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**PATENT**

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,  
Microsoft Corporation

Date: March 21, 2007

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